

*** NOT FOR PUBLICATION ***

NO. 23535

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

LEWIS W. POE, Appellant-Appellant

vs.

HAWAI'I LABOR RELATIONS BOARD, State of Hawai'i,
Appellee-Appellee

and

LINDA LINGLE¹, Governor, State of Hawai'i,
Appellee-Appellee

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 99-4595)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Appellant-appellant Lewis W. Poe appeals from the May 22, 2000 judgment of the circuit court of the first circuit, the Honorable Eden Elizabeth Hifo presiding, finding in favor of Hawai'i Labor Relations Board (HLRB), and against Poe. On appeal, Poe argues that: (1) he is bound by the terms of the existing grievance procedure to exhaust steps one through three; (2) he did not fail to exhaust all available contractual remedies; and (3) HLRB illegally altered the express terms of the grievance procedure. In his reply brief, Poe further argues that federal law does not apply in the instant case.

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised, we hold that: (1)

¹The party has been substituted pursuant to HRAP Rule 43(c)(1).

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the circuit court did not err by affirming HLRB's decision because Poe failed to establish that he attempted to exhaust all contractual remedies or that requesting the Union to proceed with step four was futile, see Poe v. Hawai'i Labor Relations Bd., 97 Hawai'i 528, 40 P.2d 930 (2002); Hokama v. University of Hawai'i, 92 Hawai'i 268, 990 P.2d 1150 (1999); Santos v. State, 64 Haw. 648, 646 P.2d 962 (1982); (2) HLRB did not alter the express terms of the grievance procedure by requiring Poe to attempt to exhaust all contractual remedies, including step four; and (3) Hawai'i courts may use parallel federal case law as guidance, see Hokama, 92 Hawai'i at 272 n.5, 990 P.2d at 1154 n.5; see generally Doe v. Parents No. 1 v. State, Dept. of Educ., 100 Hawai'i 34, 58 P.3d 545 (2002); Schefke v. Reliable Collection Agency, 96 Hawai'i 408, 32 P.3d 52 (2001). Therefore,

IT IS HEREBY ORDERED that the judgment from which the appeal is taken is affirmed.

DATED: Honolulu, Hawai'i, February 26, 2004.

On the briefs:

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appellant-appellant
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